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97TH CONGRESS
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HOUSE OF REPRESENTATIVES

REPORT
No. 97-779

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1983

COMPLETED

AUGUST 19, 1982.—Ordered to be printed

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Mr. BOLAND, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 6068]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, having met, after full and free conference, having agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That titles I, II, III, IV, V, and VII may be cited as the "Intelligence Authorization Act for Fiscal Year 1983."

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

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(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1983, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 6068 of the Ninety-seventh Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1983, funds may not be made available for any activity for which funds are authorized to be appropriated by this Act unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 104. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1983 the sum of $12,125,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1983 the sum of $15,400,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and ten full-time personnel as of September 30, 1983. Such personnel of the Intelligence Community Staff may be permanent

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employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1983, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1983, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detained on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1983, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403n) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1983 the sum of $91,300,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1982

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence Authorization Act for Fiscal Year 1982 (Public Law 97–89; 95 Stat. 1150), funds are hereby authorized to be appropriated for fiscal year 1982 for the conduct of the intelligence and intelligence-related activities of the United States Government. The amounts authorized to be appropriated under the proceding sentence are those specified for that purpose in the classified Schedule of Authorizations described in section 102.

CEILING ON THE EMPLOYMENT OF CIVILIAN PERSONNEL BY THE CENTRAL INTELLIGENCE AGENCY

SEC. 402. Section 102 of the Intelligence Authorization Act for Fiscal Year 1982 (95 stat. 1150) is amended—

(1) by striking out in the first sentence "The" and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(2) by adding at the end thereof the following:

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"(b) The Director of Central Intelligence may authorize the employment of civilian personnel by the Central Intelligence Agency in excess of the number authorized by subsection (a) when he determines that such action is necessary to the performance of important intelligence functions, except that such additional number may not exceed two percent of the total number authorized for the Central Intelligence Agency by such subsection.

"(c) The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of any authorization to increase civilian personnel of the Central Intelligence Agency under subsection (b).".

TITLE V—PROVISIONS RELATED TO INTELLIGENCE AGENCIES

UNAUTHORIZED USE OF DEFENSE INTELLIGENCE AGENCY NAME, INITIALS, OR SEAL

SEC. 501. (a) Title 10, United States Code, is amended by inserting after chapter 7 the following new chapter:

"CHAPTER 8—DEFENSE AGENCIES

"Sec.
"191. Unauthorized use of Defense Intelligence Agency name, initials, or seal.

"§ 191. Unauthorized use of Defense Intelligence Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Intelligence Agency', the initials 'DIA', the seal of the Defense Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 7 the following new item:

"8. Defense Agencies..... 191".

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AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES

SEC. 502. (a) Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (e) of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)), the provisions of section 111 of such Act relating to the procurement of automatic data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.".

(b) Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of enactment of this Act.

TITLE VI—RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SHORT TITLE

SEC. 601. This title may be cited as the "Central Intelligence Agency Spouses' Retirement Equity Act of 1982".

ANNUITANTS

SEC. 602. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) by inserting "former spouses," after "including surviving wives and husbands,"; and

(2) by adding at the end thereof the following:

"(4) 'Former spouse' means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under sections 251, 252, and 253 of this Act, at least five years of which were spent outside the United States by both the participant and the former spouse.".

COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES

SEC. 603. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by inserting immediately above the section the following section heading: "COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES"; and

(2) by amending subsection (b) to read as follows:

"(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

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"(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualifies as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

"(C) If a participant or former participant has a former spouse, the participant (or former participant) and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse, if the election is made (i) before the end of the 12-month period beginning on the date the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement of the participant.

"(D) The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

"(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(4).

"(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

"(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 222(b)(4)(B).

"(C) An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.".

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RIGHT OF ELECTION

SEC. 604. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 603 of this title, is further amended in subsection (g)—

(1) by inserting "(1)" after "(g)";

(2) by redesignating paragraphs (1) and (2) as clauses (A) and (B), respectively; and

(3) by adding at the end thereof the following:

"(2) A surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.".

SUPPLEMENTAL ANNUITIES; RECOMPUTATION OF ANNUITIES

SEC. 605. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by sections 603 and 604 of this title, is further amended by adding at the end thereof the following:

"(m)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under subsection 271(b) shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

"(2) The Director shall issue regulations to provide for the application of paragraph (1) of this subsection and of subsection 271(b) in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under section 222(b).

"(n) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 222(b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity

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elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

"(o) The Director shall, on an annual basis—

"(1) inform each participant of his or her right of election under subsections (f)(2) and (n); and

"(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 222, 223, and 234(c), (d) and (e).".

COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

SEC. 606. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following:

"COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

"SEC. 222. (a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), a former spouse of a participant or former participant is entitled to any annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such annuity which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title or on the first day of the month after the divorce or annulment involved becomes final, whichever is later. The annuity of such former spouse and the right thereto terminate on—

"(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

"(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph 4(B)).

"(4)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this title, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 221(b).

"(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and

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273, the salary of the annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

"(5) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

"(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this title (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(6) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 221(g)(2) or any comparable provision of law.

"(7) No spousal agreement or court order under section 263(b) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant. No such court order relating to an annuity under this subsection may be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

"(b)(1) Subject to any election under section 221(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 263(b), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 221(a), or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 55 percent of the full amount of such annuity which is the proportion that the number of days of the marriage of the former spouse to the former participant during periods of creditable service of such former participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) An annuity payable from the fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

"(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 221(b)(3)) with respect to

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any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

"(B) Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 221 (b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

"(C) After the death of a participant or former participant, a court order under section 263(b) may not adjust the amount of the annuity of any former spouse under this section.

"(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

"(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

"(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

"(A) such participant may elect, or

"(B) a spousal agreement or court order under section 263(b) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

"(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 221(a).

"(3)(A) In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection—

"(i) by a reduction in the annuity or an allotment from the salary of the participant,

"(ii) by a lump-sum payment or installment payments to the fund, or

"(iii) by any combination thereof.

"(B) The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as cal-

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culated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

"(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

"(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

"(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

"(D) Under regulations prescribed by the Director, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this section.

"(4) an annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

"(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

"(d) Section 221(l) shall not apply—

"(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; or

"(2) to any annuity payable under subsection (c).".

SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

SEC. 607. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 606 of this title, is further amended by adding at the end thereof the following:

"ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

"SEC. 223. (a) Any participant or former participant in the Central Intelligence Agency Retirement and Disability System who on November 15, 1982 has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

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"(b)(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

"(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982 as the Director may prescribe.

"(3) For the purposes of applying this Act, any such election shall be treated in the same manner as if it were a spousal agreement under section 263(b).".

"(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 221(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

"(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 221(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the particpant's annuity, in the case of an election under subsection (b)(1), or

(2) November 15, 1982 in the case of an election under subsection (b)(2).".

DISCONTINUED SERVICE BENEFITS

SEC. 608. Section 234 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by striking out in subsection (a) "Any" and inserting in lieu thereof the following: "Subject to the limitations contained in subsections (c), (d), and (e), any"; and

(2) by adding at the end thereof the following:

"(c) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity under this Act and becomes entitled to receive a lump-sum payment under this section or section 241, a share of that lump-sum payment shall be paid to any former spouse of the participant in accordance with subsections (d) and (e).

"(d) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit under this section or under section 241 payable to a former spouse of that participant shall be—

"(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of such lump-sum credit to which such participant would be entitled in the absence of this subsection; or

"(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

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Such lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

"(e) A lump-sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant—

"(1) only upon written notification by the Director to a current spouse of the participant, if any; and

"(2) only if the express written concurrence of that spouse has been received by the Director.".

SPOUSAL AGREEMENTS; COURT DECREES

SEC. 609. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out "None" in section 263 and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, none"; and

(2) by adding at the end thereof the following:

"(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.".

TECHNICAL AMENDMENTS

SEC. 610. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out in the first sentence of section 221(f) "Any" and inserting in lieu thereof the following: "Subject to the rights of former spouses under sections 221(b) and 222, any"; and

(2) by adding to subsection 221(1) the following paragraph:

"(4) This subsection shall not apply to the extent provided in section 222(d).".

COMPULSORY CONTRIBUTIONS

SEC. 611. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding at the end thereof the following new subsection:

"(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay period after the participant has completed thirty-five years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(h)), together with in-

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terest on these amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 252(b), and any balance not so required shall be refunded in a lump sum to the participant after separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(b)(1)), subject to any restrictions on lump sums under section 234 of this Act regarding notification or consent of a current spouse to such payments, or the participant may use these sums to purchase an additional annuity in accordance with section 281, or any other elective benefits authorized by this Act, including additional retirement or survivor benefits for a current or former spouse or spouses.".

PARTICIPANTS IN THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 612. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403 a–m) is amended by adding at the end thereof the following new section:

"RETIREMENT EQUITY FOR SPOUSES OF CERTAIN EMPLOYEES

"SEC. 14. (a) The provisions of sections 204, 221(b)(1)–(3), 211(f), 221(g)(2), 221(l), 221(m), 221(n), 221(o), 222, 223, 234(c), 234(d), 234(e), and 263(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) establishing certain requirements, limitations, rights, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments for a spouse or former spouse of an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System.

"(b) The Director of the Office of Personnel Management, in consultation with the Director of Central Intelligence, shall prescribe such regulations as may be necessary to implement the provisions of this section.".

EFFECTIVE DATE

SEC. 613. (a) Except as provided in subsections (b) and (c) of this section, this title shall take effect on November 15, 1982.

(b) The provisions of section 222(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as added by this title, regarding the rights of former spouses to an annuity shall apply in the case of any individual who after the effective date of this title becomes a former spouse of an individual who separates from service with the Agency after such date.

(c) Except to the extent provided in section 223 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, the provisions of section 221(b) (as amended by this title) and the provisions of subsections (b) and (c) of section 222 of such Act, as added by this title, regarding the rights of former spouses to receive survivor annuities shall apply in the case of any individual who after the effective date of this title becomes a former spouse of a partici-

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pant or former participant in the Central Intelligence Agency Retirement and Disability System.

TITLE VII—GENERAL PROVISIONS

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 701. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 702. Appropriations authorize by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

EFFECTIVE DATE

SEC. 703. The provisions of titles IV and V and of this title shall become effective upon the date of the enactment of this Act.

And the Senate agree to the same.

EDWARD P. BOLAND,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
BOB STUMP,
CHARLIE ROSE,
ALBERT GORE, Jr.,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,

For matters falling within the jurisdiction of the Committee on Armed Services:

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For matters of interest to the Committee on Armed Services.

JOHN W. WARNER,
Managers on the Part of the Senate.

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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the clasified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex accompanying the House bill, and the classified report and appendix that accompanied the Senate amendment) are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DOD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions between the two Houses and consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the Department of Defense Authorization Act,

1983, for those programs subject to annual authorization and contained in the Department of Defense Authorization bill. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation categories of Military Pay and Military Construction.

TITLE II—INTELLIGENCE COMMUNITY STAFF

The House bill authorized $17 million and 220 personnel for the Intelligence Community Staff in fiscal year 1983. The Senate amendment authorized $15.2 million and 210 personnel for the Staff. The conferees agreed to a total authorization of $15.4 million and 210 personnel.

INTELLIGENCE COMMUNITY STAFF (ICS)

CONFERENCE ACTIONS—FISCAL YEAR 1983

[In millions of dollars]

Project	Fiscal year 1983 request	Changes			Authorization
		House action	Senate action	Conference action	
ICS computer	1.3	−1.3	−1.2	−1.3	.....
Personnel increase—funding	0.4	.....	−0.4	−0.4	.....
(Manpower)	(10.0)	.....	(−10.0)	(−10.0)	.....
External contracts	4.5	.....	−1.5	−1.2	3.3
Funding not at issue	12.1	.....	.....	.....	12.1
(Manpower not at issue)	(210.0)	.....	.....	.....	(210.0)
Total ICS funding	18.3	−1.3	−3.1	−2.9	15.4
Total ICS manpower	(220.0)	.....	(−10.0)	(−10.0)	(210.0)

ICS Computer, −$1.3M

The conferees were in agreement that the IC Staff may receive computer support from any agency of the Community provided such support is in keeping with other authorization decisions.

IC Staff Personnel, −$0.4M

The conferees agreed to the Senate reduction.

External Contracts, −$1.2M

The Senate reduced CIA external contracts by $1.5 million. The conferees agreed to a restoration of $0.3 million. The restored funds are to be earmarked as indicated in the classified annex to the joint explanatory statement.

SECTION 401

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex accompanying the House bill and classified report and appendix accompanying the Senate amendment) are shown in the classified annex to this joint explanatory statement.

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SECTION 402

The Senate amendment contained a provision, section 402, which empowered the Director of Central Intelligence to authorize the employment of additional civilian personnel at the Central Intelligence Agency above the limit set by the Intelligence Authorization Act for Fiscal Year 1982, upon his determination that such action was necessary to the performance of important intelligence functions. Section 402 permitted this additional authorization to exceed the statutory limit by two percent of the fiscal year 1982 personnel ceiling and required that the authorization be reported promptly to the House and Senate Intelligence Committees. The House bill contained no similar provision.

The conferees agreed to the Senate provision. The conferees believed that, based on the presentation by CIA officials, an opportunity existed to hire new employees at CIA in several critically important fields. These were applicants whose qualifications would provide job opportunities in other areas of government or private industry. The conferees had agreed to increase the CIA personnel ceiling in fiscal year 1983 and felt that advancing the time within which certain new employees could be hired made good sense.

It is the understanding of the conferees that the authority granted by section 401 will be used to hire only those new employees who fall within areas of identified need. Section 401 represents the unique congruence of both opportunity and need within the last few months of the fiscal year. Ordinarily, such authority is not needed.

SECTION 502

The Senate amendment contained a provision, section 502, which would exempt the Central Intelligence Agency from the provisions of Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), the "Brooks Act." The House bill contained no similar provision. The conferees agreed to the Senate provision.

Section 111 authorizes and directs the Administrator of General Services to coordinate and provide for economic and efficient purchase, lease, and maintenance of automatic data processing (ADP) equipment by federal agencies. Section 111 grants the Administrator authority to provide ADP equipment for federal agency use through purchase, lease, transfer from other federal agencies, or otherwise, and to provide for ADP equipment maintenance and repair by contract or otherwise. The Administrator may delegate his ADP equipment procurement authority to federal agencies for reasons of efficiency or national security.

In addition to granting ADP equipment procurement authority to the Administrator of General Services, section 111 grants to the Secretary of Commerce authority to provide scientific and technological ADP advisory services to other agencies and to recommend uniform federal ADP standards to the President. The President has delegated his authority to establish uniform federal ADP standards to the Secretary of Commerce.

The Federal Property and Administrative Services Act generally does not affect the Central Intelligence Agency since section 602(d)(17) of the Act provides in pertinent part:

> "Nothing in this Act shall impair or affect any authority of— . . . (17) the Central Intelligence Agency; . . ."

However, section 111(e) of the Act provides in pertinent part:

> "The . . . provisions of section 602(d) of this Act shall have no application in the administration of this section. No other provision of this Act or any other Act which is inconsistent with the provisions of this section shall be applicable in the administration of this section."

Thus, unlike the rest of the Federal Property and Administrative Services Act, section 111 (the "Brooks Act") applies to the Central Intelligence Agency.

Since 1973, the Central Intelligence Agency has operated under a delegation of ADP equipment procurement authority from the Administrator of General Services. In the exercise of this delegated authority the Agency observes the Federal Procurement Regulations and the Federal Property Management Regulations. The General Services Administration periodically reviews CIA ADP equipment procurement under its delegated authority.

In its exercise of ADP equipment procurement authority the Agency must also observe the Federal Information Processing Standards, the uniform federal standards established by the Secretary of Commerce.

The Central Intelligence Agency, like the Department of Defense, uses automatic data processing equipment and services extensively in the conduct of intelligence activities. To conduct such activities effectively requires reliability, reasonable flexibility and speed, and the highest security in the acquisition of supporting automatic data processing equipment and services. Externally imposed ADP-related constraints diminish the effectiveness of this process. To resolve this conflict with respect to Department of Defense intelligence activities, the Congress included in the Fiscal Year 1982 DOD Authorization Act a new provision which excludes all Department of Defense ADP equipment and services procurement whose function, operation, or use involves intelligence activities from the scope of the Brooks Act (10 U.S.C. 2315(a)(1)).

The Congress also excluded from the scope of the Brooks Act DOD procurement of ADP equipment and services whose function, operation, or use, while not involving intelligence activities, is critical to the direct fulfillment of intelligence missions, except for routine administrative and business applications (10 U.S.C. 2315(a)(5) and (b)). This separate category of ADP procurement exclusion, in addition to the category involving intelligence activities, is unnecessary with respect to CIA. Unlike the Department of Defense, which has a great variety of national security-related responsibilities, the Central Intelligence Agency engages exclusively in intelligence activities, and the function, operation, and use of all CIA ADP equipment and services involves intelligence activities (Executive Order 12333, sections 1.8 and 3.4(e) (4 December 1981)). Thus, excluding CIA ADP equipment and services procurement from the

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scope of the Brooks Act is equivalent to the exclusion for DOD intelligence activities contained in 10 U.S.C. 2315(a)(1).

Such an exclusion is warranted. Since 1973, the Administrator of General Services has provided a delegation of authority for procurements under the Brooks Act. Likewise, when the Agency has sought a waiver of the Federal Information Processing Standards from the Secretary of Commerce, it has been granted. It appears clear that, over a considerable period of time, the Agency has always been able to make its case for exception from the statute's provision in the interests of the national security. Exempting the CIA entirely will not change the nature of CIA ADP procurements, but it is likely to result in more timely procurements and better security at no loss to the government as a whole, since the Agency's ADP procurements have always been creafted to meet the CIA's unique requirements and have not resulted in shared use by other agencies.

Title VI—Retirement Equity for Spouses of Certain CIA Employees

Both the House bill and the Senate amendment contained provisions designed to provide retirement equity for spouses of certain CIA employees. The conferees agreed to a modified version of the Senate provision.

The provisions of Title VI are substantially equivalent to those of section 814 and related sections of the Foreign Service Act of 1980, Pub. L. No. 96-464. These sections established a vested interest for spouses of Foreign Service officers in the officers' retirement benefits by entitling qualifying former spouses to a pro rata share of the employees' retirement annuities, survivor benefits and lump-sum disbursements paid from the retirement fund. The amount of these payments would be based on the duration of the marriage during the period of creditable government service. These interests are accorded the spouses in recognition of the difficulties of their life abroad in support of the professional activities of the officers and their contribution to fulfillment of the mission of the CIA. Providing these benefits automatically and directly from the fund in case of divorce will provide substantive and procedural protections for these persons. However, in individual cases in which the division of benefits specified by Title VI would be inappropriate, state courts (or the parties themselves through spousal agreement) will remain entirely free to review the division and reach an alternative disposition.

Methodology

The intent of both the House bill and the Senate amendment was to extend to the CIA the provisions of the Foreign Service Act of 1980 that dealt with the rights of former spouses. The House bill would have established the rights of the spouses in general terms and directed the Director of Central Intelligence and the Director of the Office of Personnel Management (for Civil Service Retirement and Disability System—CSRDS—participants) to implement them through regulations conforming to the relevant terms of the Foreign Service Act.

The Senate amendment would have adopted detailed statutory amendments, based on the provisions of the Foreign Service Act, to the CIA Retirement and Disability System (CIARDS) to guide the Director of Central Intelligence (and the Director of OPM, for the CSRDS participants) in prescribing regulations to implement the interests of the spouses.

In adopting the Senate approach, the conferees believe that no undue inflexibility is created by statutory amendments, which spell out in great detail the precise legal interests of the participants and their spouses. The Director of Central Intelligence and the Director of OPM are completely free to prescribe, within the legal framework that has been created, the procedures required to implement these interests.

The detailed provisions contained in the Senate amendment and adopted by the conferees have been drawn directly from the relevant provisions of the Foreign Service Act, with minimal conforming amendments to the Act which established CIARDS. Since the virtually identical provisions in the Foreign Service Act were enacted, the State Department has had nearly two years of experience in implementation and has developed an extensive body of regulations.

Retirees in the civil service retirement and disability system (CSRDS)

Both the House bill and the Senate amendment covered CIA employees who are retirees from CIARDS or the CSRDS, providing that the marriage upon which former spouse benefits is based was for at least ten years during the period of creditable government service of the participant, at least five years of which were spent outside the United States by both the participant and the former spouse.*

The House bill required further, however, that CSRDS payments would be affected only "in the case of an employee of the Agency on an immediate annuity under such system or who . . . dies while employed by the Agency."

The Senate amendment contained no similar restriction.

One effect of the requirements of the House bill would have been that the vested interests of the spouse, accrued during the period of marriage in Agency service, could have been defeated by a transfer of the participant to another federal agency prior to retirement. The conferees agreed that the need to close this loophole outweighed any possible administrative inconvenience that OPM might suffer in processing those few cases in which a long-time CIA officer, with at least five years overseas service, transfers late in his career to another civilian federal agency.

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* The House bill did not contain a separate provision to cover CSRDS retirees. Rather, the phrase "agency retirement system" in the House bill was defined to include the CSRDS for participating CIA employees.

The Senate amendment contained a separate section 612 which established the general criteria for coverage of CSRDS retirees and ordered the Director of OPM to prescribe implementing regulations, in conformance with the relevant provisions of CIARDS.

The conferees, in adopting the detailed approach of the Senate amendment, modified section 612 to make clear by more detailed references to the relevant CIARDS provisions that those CIA employees and their spouses who come within the purview of Title VI are to be treated equally, whether the employee spouse is a member of CIARDS or CSRDS.

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Under section 612, it is the Director of the Office of Personnel Management who has primary rulemaking authority for the CSRDS participants affected by these provisions, in consultation with the Director of Central Intelligence. The conferees feel that the Directors of OPM and Central Intelligence can minimize any recordkeeping difficulties by OPM in providing this special benefit. For example, CIA could provide in its rules that ex-employees of the Agency inform it of their retirement; OPM could require that the CIA inform it of the retirement of these individuals. CIA could also inform OPM of the few facts needed to compute the former spouse benefits in eligible cases: Whether the participant and spouse qualify for this treatment based on the duration of the marriage and extent of overseas service, and if so, how many days the marriage perdured during Agency service. Provided with this information, OPM would not have to earmark participant files for application of this procedure upon retirement. It should be noted that OPM already, under Pub. L. No. 96-366, must provide retirement benefits directly from the fund to former spouses if ordered by a court to do so. (Similarly, the Director of Central Intelligence is required to make payments from CIARDS directly to a former spouse if ordered to do so by a divorce court, under Ex. Ord. No. 12197, section 1-101(e), which conformed the Administration of CIARDS with the CSRDS in this regard.)

Lump-sum payments

The House bill incorporated by reference provisions of the Foreign Service Act which entitled former spouses to a share of any lump-sum payment made to a participant from the retirement fund.

The Senate amendment contained detailed provisions which afforded the same entitlements as the House bill and also required the Director to notify a current or certain former spouses and obtain written consent to such a withdrawal of employee contributions to the retirement fund.

The conferees have accepted the Senate provision, modified to eliminate the requirement of consent by certain former spouses. These former spouses would already have a statutory entitlement to a pro rata-share of such payments. The purpose of the notice and consent provision is to ensure that the entitlement is not defeated by a lump-sum withdrawal by a still married employee.

Time limitations

The House bill incorporated by reference the substance of sections 806(b)(1)(C) and 814(a)(4) of the Foreign Service Act of 1980.

The Senate amendment struck the 12-month time limitations found in each of these provisions.

The conferees agreed to the House position, reinserting the 12-month time limitation in the detailed CIARDS amendments drawn from the analogous Foreign Service Act provisions. The inclusion of these time limits ensures that judicial divorce orders based in part on a division of benefits affected by this Act can become final.

In readopting the time limitations in CIARDS section 221(b)(1)(C), however, the final phrase of section 806(b)(1)(C) of the Foreign Service Act, "whichever comes first," has been left deleted. This is be-

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cause this phrase would unnecessarily restrict marital partners from making alternative dispositions of survivor benefits after retirement but prior to a divorce.

Election of survivor benefits for certain ineligible former spouses

The House bill incorporated by reference the terms of section 2109 of the Foreign Service Act enabling participants voluntarily to provide survivor benefits out of their uncommitted base for such benefits to persons who are former spouses at the time of this Title's enactment and thus are not eligible for its benefits.

The Senate amendment adopted detailed provisions from section 2109 but several subsections inadvertently were omitted.

The conferees have adopted the Senate language, modified to take the effective date provision into account, with the missing subsections reincorporated.

Effective date

The House bill established an effective date of 30 days after enactment for Title VI.

The Senate amendment established an effective date of 90 days after enactment for Title VI.

The conferees agreed that Title VI should become effective on November 15, 1982.

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